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10/005,795	11/08/2001	Daniel A. King	DIGI.0001	1407
23669 7590 03/06/2009 HUFFMAN LAW GROUP, P.C. 1900 MESA AVE. COLORADO SPRINGS, CO 80906				
EXAMINER PORTER, RACHEL L				
ART UNIT 3626		PAPER NUMBER		
NOTIFICATION DATE 03/06/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO@HUFFMANLAW.NET

Office Action Summary

Application No.

10/005,795

Applicant(s)

KING ET AL.

Examiner

RACHEL L. PORTER

Art Unit

3626

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 19, 20, 22-26 and 36-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 27-29, 30-35 and 44-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the election filed 11/21/08. Claims 1-45 are pending. Claims 19-21, 22-26, 36-38, and 39-43 are withdrawn from further consideration as per the election filed 5/9/07.

Claims 1-18, 27-29, 30-35 and 44-45 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-18, 27-29, 30-35 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freedman et al (US 2002/0002475) in view of Mackey et al (US 6,141,611).

[claim 1] Freedman teaches a method of facilitating the claims and repair process for an insured person, comprising:

- collecting accident information involving a vehicle that gets damaged (Figure 1), wherein said collecting accident information includes employing a mapping system to map a surface of a vehicle to generate damage information (par. 119, 128-130, 132-132-135;

- communicating the accident information, including the damage information, to a remote site; (figure 1—120; par. 128-130) and
- posting the accident information, including the damage information, on behalf of the insured person for purposes of selecting repair and supplier parties. (figure 1—120, 122; par 128-133)

Freedman, however, does not expressly disclose capturing information at the “at birth of an accident.” Mackey discloses a method for electronically collecting data at the accident scene, transmitting and storing the details of an accident (col. 2, lines 15-29). At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system and method of Freedman with the teaching of Mackey to include equipment to capture data at the scene of the accident. As suggested by Mackey, one would have been motivated to include this feature to ensure that the accident data is readily available for evaluation by authorized parties, such as insurance adjusters, risk management and loss control entities. (col. 1, lines 15-17)

[claim 2] Freedman discloses the method of claim 1, further comprising: providing electronic data collection equipment; and said collecting accident information comprising using the electronic data collection equipment to retrieve and record accident information. (par. 131-132; 141)

[claim 3] Freedman discloses the method of claim 2, the electronic data collection equipment comprising mobile electronic data collection equipment, wherein said

collecting accident information comprises retrieving and recording accident information at the birth of the accident. (Figure 1; 120-122; 134-135 video)

[claim 4] Freedman discloses the method of claim 3, further comprising: communicating claim information from the remote site to the insured person via the mobile electronic data collection equipment. (par. 120-122; 134-135 video; 141-143- policyholders receive claim status data)

[claim 5] Freedman discloses the method of claim 4, wherein the claim information includes a claim number. (par. 117, 163-165)

[claim 6] Freedman discloses the method of claim 4, further comprising: making a preliminary damage estimation; and providing a preliminary claims estimate to the insured person via the mobile electronic data collection equipment. (Figure 1-estimate step; 127-128; par. 131-135; 141-143-- Accident data is collected via the mobile electronic data collection equipment (par. 119-122; 132-135 video) is used for damage estimate; claim data retrieved by insured at web portal)

[claim 7] Freedman discloses the method of claim 3, wherein said providing electronic data collection equipment comprises distributing mobile electronic data collection equipment to insured persons. (Figure 1; 120-122; 134-135 video)

[claim 8] Freedman discloses The method of claim 3, wherein said providing electronic data collection equipment comprises distributing mobile electronic data collection equipment to tow truck drivers or other third parties. (par. 132-135)

[Claim 9] Freedman teaches the method of claim 3, the mobile electronic data collection equipment incorporating a digital camera, wherein said collecting accident information comprises taking digital images. (par. 132-135)

[claim 10] Freedman teaches the method of claim 9, the mobile electronic data collection equipment further incorporating wireless communications, wherein said electronically communicating the accident information comprises wirelessly communicating digital images. (par. 132-135; 196)

[claims 11-12] Freedman discloses the method of claim 9, wherein said taking digital images includes taking digital images of damaged vehicles and images associated with the scene of the accident including concomitant environmental conditions or images of injured persons. (Figure 1; par. 129; 132-135)

[claims 13] Freedman discloses The method of claim 3, the mobile electronic data collection equipment incorporating a bar code scanner, wherein said collecting accident information comprises scanning a bar coded vehicle identification number of a damaged vehicle. (par. 119, 125-126)

[claim 14] Freedman teaches The method of claim 3, the mobile electronic data collection equipment incorporating wireless communications, wherein said electronically communicating the accident information comprises wirelessly transmitting the accident information. (par. 119)

[claim 15] Freedman discloses the method of claim 3, the mobile electronic data collection equipment configured to store the accident information and for interfacing a PC dispatch system coupled to a communication network, further comprising (Figure 3):

Art Unit: 3626

providing a PC dispatch system at a facility; retrieving the insured person's damaged vehicle and the mobile electronic data collection equipment at the accident site and delivering to the facility; coupling the mobile electronic data collection equipment to the PC dispatch system; and the PC dispatch system retrieving the accident information from the mobile electronic data collection equipment and electronically communicating the accident information via the communication network. (Figure 1; par. 127-135) [claims 16-17] Freedman discloses the method of claim 2, the electronic data collection equipment comprising a mapping system with electronic communication capability, wherein said collecting accident information comprises mapping the damaged vehicle. (Figure 1 (120-127); par.125; 129)

[claim 18] Freedman discloses the method of claim 16, the electronic communication capability comprising wireless communications, wherein said electronically communicating the accident information comprises wirelessly transmitting mapped information via the communication network. (Figures 1,3; par. 125, 196)

[claims 27-28] Freedman discloses a method further comprising: dispatching a tow truck to retrieve and deliver a replacement vehicle to the accident site; and retrieving, by the dispatched tow truck, the damaged vehicle or replacement vehicle (par. 132-136, 141—discloses dispatching a tow truck to retrieve a truck)

[claim 29] Freedman discloses the method of claim 1, further comprising:

providing a computer with estimation software at the remote site to assist and facilitate assessment of the accident information to identify a claims estimate by a claims adjuster. (Fig. 1; par. 129-130)

[claim 30] Freedman teaches the method of claim 1, further comprising: providing a master database incorporating aggregate damage and accident information of other accidents; (par. 124-130) and providing a claims wizard at the remote site that operates as an expert system which uses new accident information and the aggregate damage and accident information to assist in damage assessment. (par. 128, 130-131)

[Claims 31-32] Freedman discloses the method of claim 30, further comprising employing, by the claims wizard, similar-type vehicle information or accident information from the master database. (Figure 3; par. 183-195; par. 226)

[claim 33] Freedman teaches the method of claim 30, further comprising: providing wireless mobile electronic data collection equipment for availability at accident sites, wherein said collecting accident information comprises using the mobile electronic data collection equipment to retrieve accident information and to transmit the accident information to the remote site;(125, 129-130) and the claims wizard interactively cooperating with the wireless mobile electronic data collection equipment regarding particular data collection parameters. (Figure 3; par. 183-195; par. 226)

[claim 34] Freedman discloses the method of claim 33, further comprising:

Art Unit: 3626

the claims wizard transmitting instructions to the wireless mobile electronic data collection equipment to facilitate collecting any additional information regarding the accident to facilitate damage assessment. (par. 141-144, 146)

[claim 35] Freedman discloses the method of claim 33, further comprising: the wireless mobile electronic data collection equipment including a digital camera for wirelessly communicating digital images to the remote site; (125, 132-135; 196) and the claims wizard transmitting instructions to the wireless mobile electronic data collection equipment for taking digital images of certain parts of the damaged vehicle. (par. 141-144, 146)

[claim 44] Freedman discloses The method of claim 1, further posting claim activity and repair process for enabling the insured person to monitor progress. (par. 141)

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 45 is rejected under 35 U.S.C. 102(e) as being anticipated by Freedman.

[claim 45] Freedman discloses a claims process method, comprising: employing a mapping system to map a surface of vehicle to generate damage information; and using the damage information in an attempt to assess complete vehicle damages for claim purposes.(par. 125, 128-130—Examiner interprets video tapes of damage to assess the cost of damage to be the mapping of damage.)

Response to Arguments

6. Applicant's arguments filed 11/21/08 have been fully considered but they are not persuasive.

(A) Applicant argues that the newly added limitations and amendments of claim 1.

In response, the Examiner had provided additional citations to address the newly added limitations. Applicant's argues that Mackey does not disclose a mapping system

In response, it is respectfully submitted that the mapping does not require laser scanning or lack of human intervention. Furthermore, the video equipment described in the Freedman reference (par. 119-121) allows damage on one point of the car to be captured to with respect to other areas of the car . Therefore, the prior art addresses the current claim limitations.

(B) Applicant argues that the Freedman reference does not disclose communicating claim information to the insured information via the mobile electronic data collection equipment as recited in claim 4.

In response, the Examiner respectfully disagrees with the applicant's interpretation of the reference. Accident data collected via the mobile electronic data collection equipment (par. 119-122; 132-135 video) is used for claims processing and is retrieved by policyholders/insureds at the web portal (par. 141-143)

(C) Applicant argues that the prior art does not disclose making a preliminary damage estimate and providing a preliminary claims estimate to the insured person via the mobile electronic data collection equipment.

Again, the Examiner respectfully disagrees with the applicant's interpretation of the reference. Accident data is collected via the mobile electronic data collection equipment (par. 119-122; 132-135 video) is used for claims processing. In particular, the providers use video equipment to record damage and estimate the cost of repair for the claim (par. 127-128). Data regarding claim damage and claims processing is retrieved by policyholders/insureds at the web portal. (par. 141-143)

(D) Applicant argues that Mackey does not disclose a mapping system with electronic communication ability. In particular, the applicant argues that the mapping of a solid object (e.g. laser scanning) requires the application of mathematical reference points.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., laser scanning; generation of mathematical reference points; further analysis without human intervention) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read

Art Unit: 3626

into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It is respectfully submitted that the mapping does not require laser scanning or lack of human intervention. Furthermore, the video equipment described in the Freedman reference (par. 119-121) allows damage on one point of the car to be captured to with respect to other areas of the car . Freedman further discloses electronic communication. Therefore, the prior art addresses the current claim limitations.

(E) Applicant argues that the prior art does not disclose "dispatching a tow truck to retrieve and deliver a repaired vehicle to the insured person; and retrieving, by the dispatched tow truck, the replacement vehicle."

Freedman discloses dispatching a tow truck and retrieving a vehicle. (par. 132-136, 141). In response to applicant's argument that it is "not described for the purpose of delivering a repaired vehicle to the insured and retrieving the replacement vehicle", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

(F) Applicant argues that Freedman does not disclose providing a claims wizard and using aggregate damage to assist in damage assessment.

In response, the Examiner respectfully disagrees. It is noted that the current claim language provides no distinct definition of a "claims wizard." Furthermore, the

claim language states and "providing a master database..." and "providing a claims wizard....". The step of "providing" is not active and does not clearly describe what action(s) is/are being performed.

Moreover, Freedman discloses providing a claims wizard, providing a master database and using aggregate to assist in damage assessment. (par. 128, 130-131)

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL L. PORTER whose telephone number is (571)272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, (Christopher) Luke Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. L. P./
Examiner, Art Unit 3626

/C. Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626